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**UNITED STATES DISTRICT COURT**

**FOR THE CENTRAL DISTRICT OF CALIFORNIA**

PORTIA MASON, an individual,  
Plaintiff,

v.

TWELFTH OF MAY, LLC d/b/a  
THE BEL-AIR, a California limited  
liability company; and DOES 1 to 10,  
inclusive,

Defendants.

CASE No.:

**COMPLAINT**

1. VIOLATIONS OF THE  
AMERICANS WITH  
DISABILITIES ACT OF 1990, 42  
U.S.C. § 12181
2. VIOLATIONS OF THE UNRUH  
CIVIL RIGHTS ACT,  
CALIFORNIA CIVIL CODE § 51  
**DEMAND FOR JURY TRIAL**

Plaintiff Portia Mason (“Plaintiff”) brings this action based upon personal knowledge as to herself and her own acts, and as to all other matters upon information and belief, based upon, *inter alia*, the investigations of her attorneys.

**NATURE OF THE ACTION**

1. Plaintiff is a visually impaired and legally blind individual who requires screen-reading software to read website content using her computer. Plaintiff uses the terms “blind” or “visually-impaired” to refer to all people with visual impairments who meet the legal definition of blindness in that they have a

1 visual acuity with correction of less than or equal to 20 x 200. Some blind people  
2 who meet this definition have limited vision. Others have no vision.

3 2. Plaintiff brings this Complaint to secure redress against Twelfth of  
4 May, LLC d/b/a The Bel-Air (hereafter “Defendant”), and DOES 1-10, for its  
5 failure to design, construct, maintain, and operate its website to be fully and equally  
6 accessible to and independently usable by Plaintiff and other blind or visually-  
7 impaired individuals. Defendant’s denial of full and equal access to its website, and  
8 therefore denial of its products and services offered thereby and in conjunction with  
9 its physical location, is a violation of Plaintiff’s rights under the Americans with  
10 Disabilities Act (“ADA”) and California’s Unruh Civil Rights Act (“UCRA”).

11 3. Because Defendant’s website, <https://shop.thebel-air.com/> (the  
12 “website” or “Defendant’s website”), is not fully or equally accessible to blind and  
13 visually impaired consumers in violation of the ADA, Plaintiff seeks a permanent  
14 injunction to cause a change in Defendant’s corporate policies, practices, and  
15 procedures so that Defendant’s website will become and remain accessible to  
16 Plaintiff and other blind and visually impaired consumers.

### 17 THE PARTIES

18 4. Plaintiff, at all times relevant and as alleged herein, is a resident of the  
19 County of Los Angeles. Plaintiff is a legally blind, visually impaired, handicapped  
20 person, and a member of a protected class of individuals under the ADA, pursuant  
21 to 42 U.S.C. § 12102(1)-(2), and the regulations implementing the ADA set forth  
22 at 28 CFR §§ 36.101 *et seq.*

23 5. Defendant is a California limited liability company with its  
24 headquarters in Los Angeles, California. Defendant’s servers for the website are in  
25 the United States. Defendant conducts a large amount of its business in California  
26 and the United States as a whole. The physical location where Defendant’s goods  
27 and services are sold to the public constitutes a place of public accommodation.  
28 Defendant’s restaurant provides to the public important goods and services.

1 Defendant's website provides consumers access to delicatessen staples, grab-and-  
2 go breakfast and lunch, burritos, salads, sandwiches as well as grocery items.  
3 Consumers can access information regarding online ordering, Defendant's  
4 restaurant location, Defendant's hours of operation, and Defendant's email  
5 newsletter and social media content.

6 6. Plaintiff is unaware of the true names, identities, and capacities of each  
7 Defendant sued herein as DOES 1 to 10. Plaintiff will seek leave to amend this  
8 complaint to allege the true names and capacities of DOES 1 to 10 if and when  
9 ascertained. Plaintiff is informed and believes, and thereupon alleges, that each  
10 Defendant sued herein as a DOE is legally responsible in some manner for the  
11 events and happenings alleged herein and that each Defendant sued herein as a DOE  
12 proximately caused injuries and damages to Plaintiff as set forth below.

13 7. Defendant's restaurant is a public accommodation within the  
14 definition of Title III of the ADA, 42 U.S.C. § 12181(7).

15 8. The website, <https://shop.thebel-air.com/>, is a service, privilege, or  
16 advantage of Defendant's services, products, and location.

### 17 JURISDICTION AND VENUE

18 9. Defendant is subject to personal jurisdiction in this District. Defendant  
19 has been and continues to commit the acts or omissions alleged herein in the Central  
20 District of California, that caused injury, and violated rights prescribed by the ADA  
21 and UCRA, to Plaintiff. A substantial part of the acts and omissions giving rise to  
22 Plaintiff's claims occurred in the Central District of California. Specifically, on  
23 several separate occasions, Plaintiff has been denied the full use and enjoyment of  
24 the facilities, goods, and services of Defendant's website in Los Angeles County.  
25 The access barriers Plaintiff has encountered on Defendant's website have caused  
26 a denial of Plaintiff's full and equal access multiple times in the past and now deter  
27 Plaintiff on a regular basis from accessing Defendant's website. Similarly, the  
28 access barriers Plaintiff has encountered on Defendant's website have impeded

1 Plaintiff's full and equal enjoyment of goods and services offered at Defendant's  
2 brick-and-mortar location.

3 10. This Court also has subject-matter jurisdiction over this action  
4 pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 12181, as Plaintiff's claims arise  
5 under Title III of the ADA, 42 U.S.C. § 12181, *et seq.*, and 28 U.S.C. § 1332.

6 11. This Court has personal jurisdiction over Defendant because it  
7 conducts and continues to conduct a substantial and significant amount of business  
8 in the State of California, County of Los Angeles, and because Defendant's  
9 offending website is available across California.

10 12. Venue is proper in the Central District of California pursuant to 28  
11 U.S.C. § 1391 because Plaintiff resides in this District, Defendant conducts and  
12 continues to conduct a substantial and significant amount of business in this District,  
13 Defendant is subject to personal jurisdiction in this District, and a substantial  
14 portion of the conduct complained of herein occurred in this District.

15 **THE AMERICANS WITH DISABILITIES ACT AND THE INTERNET**

16 13. The Internet has become a significant source of information, a portal,  
17 and a tool for conducting business, doing everyday activities such as shopping,  
18 learning, banking, researching, as well as many other activities for sighted, blind,  
19 and visually impaired persons alike.

20 14. In today's tech-savvy world, blind and visually impaired people have  
21 the ability to access websites using keyboards in conjunction with screen access  
22 software that vocalizes the visual information found on a computer screen. This  
23 technology is known as screen-reading software. Screen-reading software is  
24 currently the only method a blind or visually impaired person may use to  
25 independently access the internet. Unless websites are designed to be read by  
26 screen-reading software, blind and visually impaired persons are unable to fully  
27 access websites, and the information, products, and services contained thereon.

1           15. Blind and visually impaired users of Windows operating system-  
2 enabled computers and devices have several screen-reading software programs  
3 available to them. Some of these programs are available for purchase and other  
4 programs are available without the user having to purchase the program separately.  
5 Job Access With Speech, otherwise known as “JAWS,” is currently the most  
6 popular, separately purchased and downloaded screen-reading software program  
7 available for a Windows computer.

8           16. For screen-reading software to function, the information on a website  
9 must be capable of being rendered into text. If the website content is not capable  
10 of being rendered into text, the blind or visually impaired user is unable to access  
11 the same content available to sighted users.

12           17. The international website standards organization, the World Wide  
13 Web Consortium, known throughout the world as W3C, has published Success  
14 Criteria for version 2.1 of the Web Content Accessibility Guidelines (“WCAG 2.1”  
15 hereinafter). WCAG 2.1 are well-established guidelines for making websites  
16 accessible to blind and visually impaired people. These guidelines are adopted,  
17 implemented, and followed by most large business entities who want to ensure their  
18 websites are accessible to users of screen-reading software programs. Though  
19 WCAG 2.1 has not been formally adopted as the standard for making websites  
20 accessible, it is one of, if not the most, valuable resource for companies to operate,  
21 maintain, and provide a website that is accessible under the ADA to the public.

22           18. Within this context, the Ninth Circuit has recognized the viability of  
23 ADA claims against commercial website owners/operators with regard to the  
24 accessibility of such websites. *Robles v. Domino’s Pizza, LLC*, 913 F.3d 898, 905-  
25 06 (9th Cir. 2019), *cert. denied*, 140 S.Ct. 122, 206 L. Ed. 2d 41 (2019). This is in  
26 addition to the numerous courts that have already recognized such application.

27           19. Each of Defendant’s violations of the Americans with Disabilities Act  
28 is likewise a violation of the Unruh Civil Rights Act. Indeed, the Unruh Civil Rights

1 Act provides that any violation of the ADA constitutes a violation of the Unruh  
2 Civil Rights Act. Cal. Civ. Code § 51(f).

3 20. Further, Defendant's actions and inactions denied Plaintiff full and  
4 equal access to their accommodations, facilities, and services. A substantial  
5 motivating reason for Defendant to deny Plaintiff access was the perception of  
6 Plaintiff's disability. Defendant's denial of Plaintiff's accessibility was a  
7 substantial motivating reason for Defendant's conduct. Plaintiff was harmed due  
8 to Defendant's conduct. Defendant's actions and inactions were a substantial factor  
9 in causing the lack of access to Plaintiff. Unruh Civil Rights Act, Cal. Civ. Code §  
10 51.

11 21. Inaccessible or otherwise non-compliant websites pose significant  
12 access barriers to blind and visually impaired persons. Common barriers  
13 encountered by blind and visually impaired persons include, but are not limited to,  
14 the following:

- 15 a. A text equivalent for every non-text element is not provided;
- 16 b. Title frames with text are not provided for identification and  
17 navigation;
- 18 c. Equivalent text is not provided when using scripts;
- 19 d. Forms with the same information and functionality as for sighted  
20 persons are not provided;
- 21 e. Information about the meaning and structure of content is not  
22 conveyed by more than the visual presentation of content;
- 23 f. Text cannot be resized without assistive technology up to 200  
24 percent without loss of content or functionality;
- 25 g. If the content enforces a time limit, the user is not able to extend,  
26 adjust or disable it;
- 27 h. Web pages do not have titles that describe the topic or purpose;
- 28 i. The purpose of each link cannot be determined from the link text

1 alone or from the link text and its programmatically determined link  
2 context;

3 j. One or more keyboard operable user interface lacks a mode of  
4 operation where the keyboard focus indicator is discernible;

5 k. The default human language of each web page cannot be  
6 programmatically determined;

7 l. When a component receives focus, it may initiate a change in  
8 context;

9 m. Changing the setting of a user interface component may  
10 automatically cause a change of context where the user has not been  
11 advised before using the component;

12 n. Labels or instructions are not provided when content requires user  
13 input;

14 o. In content which is implemented by using markup languages,  
15 elements do not have complete start and end tags, elements are not  
16 nested according to their specifications, elements may contain  
17 duplicate attributes and/or any IDs are not unique;

18 p. Inaccessible Portable Document Format (PDFs); and

19 q. The name and role of all User Interface elements cannot be  
20 programmatically determined; items that can be set by the user  
21 cannot be programmatically set; and/or notification of changes to  
22 these items is not available to user agents, including assistive  
23 technology.

## 24 **FACTUAL BACKGROUND**

25 22. Defendant offers the <https://shop.thebel-air.com/> website to the public.  
26 The website offers features which should allow all consumers to access the goods  
27 and services which Defendant offers in connection with its physical location. The  
28 goods and services offered by Defendant include, but are not limited to, the



1 following: hot and cold beverages such as espresso, hot tea, hot chocolate,  
 2 cappuccinos, lattes, coffee, iced coffee, iced tea, and blended lattes; breakfast items  
 3 such as bagels, eggs, toast, and breakfast burritos; sandwiches such in varieties such  
 4 as tuna melt, turkey, black forest ham, veggie & avocado, grilled cheese, BLT, roast  
 5 beef, pastrami, tuna salad, egg salad, club, cajun chicken, reuben, cheesesteak, lime  
 6 shrimp salad, and pesto wraps; salads such as chicken cobb salads and susan's fav;  
 7 bowls such as acai bowls, fiesta bowls, and Back of House Bowls; bottled beverages  
 8 such as ginger ale, Celsius Orange, soda, Gatorade, kombucha, energy drinks,  
 9 lemonade, and bottled water; pastries such as croissants, muffins, lemon poppyseed  
 10 bread, and banana walnut bread; snacks such as chips, candy, gum, and health bars;  
 11 alcoholic beverages such as beer, wine, and cocktails; and grocery items such as  
 12 facial tissues, toilet paper, paper towels, eggs, peanut butter, and birthday candles.  
 13 Furthermore, Defendant's website allows consumers to access information  
 14 regarding online ordering, Defendant's restaurant location, Defendant's hours of  
 15 operation, and Defendant's email newsletter and social media content.

16 23. Based on information and belief, it is Defendant's policy and practice  
 17 to deny Plaintiff, along with other blind or visually impaired users, access to  
 18 Defendant's website, and to therefore specifically deny the goods and services that  
 19 are offered and integrated within Defendant's restaurant. Due to Defendant's  
 20 failure and refusal to remove access barriers on its website, Plaintiff and other  
 21 visually impaired persons have been and are still being denied equal and full access  
 22 to Defendant's restaurant and the numerous goods, services, and benefits offered to  
 23 the public through Defendant's website.

24 **DEFENDANT'S BARRIERS ON UNRUH CIVIL RIGHTS ACT, CAL. CIV.**  
 25 **CODE § 51(f) DENY PLAINTIFF ACCESS**

26 24. Plaintiff is a visually impaired and legally blind person, who cannot  
 27 use a computer without the assistance of screen-reading software. However,  
 28 Plaintiff is a proficient user of the JAWS or NV ACCESS screen-reader(s) as well



1 as Mac's VoiceOver and uses it to access the internet. Plaintiff has visited  
 2 <https://shop.thebel-air.com/> on several separate occasions using the JAWS and/or  
 3 VoiceOver screen-readers.

4 25. During Plaintiff's numerous visits to Defendant's website, Plaintiff  
 5 encountered multiple access barriers which denied Plaintiff full and equal access to  
 6 the facilities, goods, and services offered to the public and made available to the  
 7 public on Defendant's website. Due to the widespread access barriers Plaintiff  
 8 encountered on Defendant's website, Plaintiff has been deterred, on a regular basis,  
 9 from accessing Defendant's website.

10 26. While attempting to navigate Defendant's website, Plaintiff  
 11 encountered multiple accessibility barriers for blind or visually impaired people that  
 12 include, but are not limited to, the following:

- 13 a. Lack of Alternative Text ("alt-text"), or a text equivalent. Alt-text  
 14 is invisible code embedded beneath a graphic or image on a website  
 15 that is read to a user by a screen-reader. For graphics or images to  
 16 be fully accessible for screen-reader users, it requires that alt-text  
 17 be coded with each graphic or image so that screen-reading  
 18 software can speak the alt-text to describe the graphic or image  
 19 where a sighted user would just see the graphic or image. Alt-text  
 20 does not change the visual presentation, but instead a text box  
 21 shows when the cursor hovers over the graphic or image. The lack  
 22 of alt-text on graphics and images prevents screen-readers from  
 23 accurately vocalizing a description of the image or graphic.  
 24 Plaintiff is further unable to access information regarding online  
 25 ordering, Defendant's restaurant location, menu items, Defendant's  
 26 hours of operation, Defendant's email newsletter and social media  
 27 content.

- 28 b. Empty Links that contain No Text causing the function or purpose

1 of the link to not be presented to the user. This can introduce  
2 confusion for keyboard and screen-reader users;

3 c. Redundant Links where adjacent links go to the same URL address  
4 which results in additional navigation and repetition for keyboard  
5 and screen-reader users; and

6 d. Linked Images missing alt-text, which causes problems if an image  
7 within a link does not contain any descriptive text and that image  
8 does not have alt-text. A screen reader then has no content to  
9 present the user as to the function of the link, including information  
10 or links for and contained in PDFs.

11 27. Recently in 2022, Plaintiff attempted to do business with Defendant  
12 on Defendant's website and Plaintiff encountered barriers to access on Defendant's  
13 website.

14 28. Despite past and recent attempts to do business with Defendant on its  
15 website, the numerous access barriers contained on the website and encountered by  
16 Plaintiff, have denied Plaintiff full and equal access to Defendant's website.  
17 Plaintiff, as a result of the barriers on Defendant's website, continues to be deterred  
18 from accessing Defendant's website. Likewise, based on the numerous access  
19 barriers Plaintiff has been deterred and impeded from the full and equal enjoyment  
20 of goods and services offered in Defendant's restaurant.

21 **DEFENDANT'S WEBSITE HAS A SUFFICIENT NEXUS TO**  
22 **DEFENDANT'S RESTAURANT LOCATION TO SUBJECT THE**  
23 **WEBSITE TO THE REQUIREMENTS OF THE AMERICANS WITH**  
24 **DISABILITIES ACT**

25 29. In the Ninth Circuit a denial of equal access to a website can support  
26 an ADA claim if the denial has prevented or impeded a visually impaired plaintiff  
27 from equal access to, or enjoyment of, the goods and services offered at the  
28 defendant's physical facilities. *See Martinez v. San Diego County Credit Union*, 50

1 Cal. App. 5th, 1048, 1063 (2020) (citing *Robles v. Domino's Pizza, LLC*, 913 F.3d  
2 898, 905-06 (9th Cir. 2019)).

3 30. Defendant's website is subject to the ADA because the goods and  
4 services offered on the website are an extension of the goods and services offered  
5 in Defendant's brick-and-mortar restaurant. For example, the food and grocery  
6 items available for purchase online is available for purchase in Defendant's brick-  
7 and-mortar restaurant and the services offered on the website can also be accessed  
8 in Defendant's brick-and-mortar stores. Furthermore, consumers can place online  
9 orders for pickup in Defendant's restaurant. Thus, since the Website "facilitate[s]  
10 access to the goods and services of a place of public accommodation", the Website  
11 falls within the protection of the ADA because the Website "connects customers to  
12 the goods and services of [Defendant's] physical" store. *Id.* at 905.

13 31. Defendant's website is replete with barriers, including but not limited  
14 to, links and buttons that that do not have discernible names as a result of  
15 Defendant's failure to code its website so that alternative text can be read aloud by  
16 Plaintiff's screen-reader. Links and buttons that that do not have discernible names  
17 impede Plaintiff from accessing the goods and services of Defendant's website. For  
18 example, Plaintiff, who was shopping for a Veggie sandwich, could not discern  
19 which button would add the sandwich to her cart because links and buttons lacked  
20 alternative text. When a link or button does not have a discernible name, screen-  
21 readers announce it as link or "unlabeled," making the goods sold via the respective  
22 link or linked images inaccessible to users of screen-readers, like Plaintiff, who rely  
23 on their screen-readers to read aloud the content of the linked image or link using  
24 the alternative text which should be inserted into the coding of the website. If  
25 Defendant had sufficiently coded the links and linked images on its website to be  
26 readable by Plaintiff's screen-reader, Plaintiff would have been able to interact with  
27 these elements and completed a purchase as a sighted person could.

28 32. Accordingly, Plaintiff was denied the ability to make a purchase,

1 because Defendant failed to have the proper procedures in place to ensure that  
2 content uploaded to the Website contains the proper coding to convey the meaning  
3 and structure of the Website and the goods and services provided by Defendant.

4 **DEFENDANT MUST REMOVE BARRIERS TO ITS WEBSITE**

5 33. Due to the inaccessibility of the Defendant's website, blind and  
6 visually impaired customers such as Plaintiff, who need screen-readers, cannot fully  
7 and equally use or enjoy the facilities and services Defendant offers to the public  
8 on its website. The access barriers Plaintiff has encountered have caused a denial  
9 of Plaintiff's full and equal access in the past and now deter Plaintiff on a regular  
10 basis from accessing the website.

11 34. These access barriers on Defendant's website have deterred Plaintiff  
12 from enjoying the goods and services of Defendant's brick-and-mortar restaurant  
13 which are offered through Defendant's website in a full and equal manner to sighted  
14 individuals. Plaintiff and Class Members intend to visit the Defendant's website in  
15 the near future if Plaintiff and Class Members could access Defendant's website as  
16 a sighted person can.

17 35. If the website were equally accessible to all, Plaintiff could  
18 independently navigate the website and complete a desired transaction, as sighted  
19 individuals do.

20 36. Plaintiff, through Plaintiff's attempts to use the website, has actual  
21 knowledge of the access barriers that make these services inaccessible and  
22 independently unusable by blind and visually impaired people.

23 37. Because simple compliance with WCAG 2.1 would provide Plaintiff  
24 with equal access to the website, Plaintiff alleges that Defendant engaged in acts of  
25 intentional discrimination, including, but not limited to, the following policies or  
26 practices: constructing and maintaining a website that is inaccessible to visually-  
27 impaired individuals, including Plaintiff; failing to construct and maintain a website  
28 that is sufficiently intuitive so as to be equally accessible to visually-impaired

1 individuals, including Plaintiff; and failing to take actions to correct these access  
 2 barriers in the face of substantial harm and discrimination to blind and visually-  
 3 impaired consumers, such as Plaintiff, as a member of a protected class.

4 38. The Defendant uses standards, criteria or methods of administration  
 5 that have the effect of discriminating or perpetuating the discrimination against  
 6 others, as alleged herein.

7 39. The ADA expressly contemplates the injunctive relief that Plaintiff  
 8 seeks in this action. In relevant part, the ADA requires:

9 In the case of violations of ... this title, injunctive relief shall include  
 10 an order to alter facilities to make such facilities readily accessible to  
 11 and usable by individuals with disabilities .... Where appropriate,  
 12 injunctive relief shall also include requiring the ... modification of a  
 13 policy .... 42 U.S.C. § 12188(a)(2).

14 40. Because Defendant's website has never been equally accessible, and  
 15 because Defendant lacks a corporate policy that is reasonably calculated to cause  
 16 the Defendant's website to become and remain accessible, Plaintiff invokes 42  
 17 U.S.C. § 12188(a)(2) and seeks a permanent injunction requiring the Defendant to  
 18 retain a qualified consultant acceptable to Plaintiff to assist Defendant to comply  
 19 with WCAG 2.1 guidelines for Defendant's website. The website must be  
 20 accessible for individuals with disabilities who use desktop computers, laptops,  
 21 tablets, and smartphones. Plaintiff seeks that this permanent injunction require  
 22 Defendant to cooperate with the agreed-upon consultant to: train Defendant's  
 23 employees and agents who develop the website on accessibility compliance under  
 24 the WCAG 2.1 guidelines; regularly check the accessibility of the website under  
 25 the WCAG 2.1 guidelines; regularly test user accessibility by blind or vision-  
 26 impaired persons to ensure that the Defendant's website complies under the WCAG  
 27 2.1 guidelines; and develop an accessibility policy that is clearly disclosed on the  
 28 Defendant's website, with contact information for users to report accessibility-

1 related problems and require that any third-party vendors who participate on the  
2 Defendant's website to be fully accessible to the disabled by conforming with  
3 WCAG 2.1.

4 41. If Defendant's website were accessible, Plaintiff could independently  
5 access information about the services offered and goods available for online  
6 purchase.

7 42. Although Defendant may currently have centralized policies regarding  
8 maintaining and operating Defendant's website, Defendant lacks a plan and policy  
9 reasonably calculated to make Defendant's website fully and equally accessible to,  
10 and independently usable by, blind and other visually impaired consumers.

11 43. Defendant has, upon information and belief, invested substantial sums  
12 in developing and maintaining Defendant's website, and Defendant has generated  
13 significant revenue from Defendant's website. These amounts are far greater than  
14 the associated cost of making Defendant's website equally accessible to visually  
15 impaired customers.

16 44. Without injunctive relief, Plaintiff will continue to be unable to  
17 independently use Defendant's website, violating their rights.

## 18 **COUNT I**

### 19 **VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT, 42**

#### 20 **U.S.C. § 12181 *ET SEQ.***

21 45. Plaintiff alleges and incorporates herein by reference each and every  
22 allegation contained in paragraphs 1 through 44, inclusive, of this Complaint as if  
23 set forth fully herein.

24 46. Section 302(a) of Title III of the ADA, 42 U.S.C. § 12181 *et seq.*,  
25 provides: "No individual shall be discriminated against on the basis of disability in  
26 the full and equal enjoyment of the goods, services, facilities, privileges,  
27 advantages, or accommodations of any place of public accommodation by any  
28 person who owns, leases (or leases to), or operates a place of public

1 accommodation.” 42 U.S.C. § 12182(a).

2 47. Under Section 302(b)(2) of Title III of the ADA, unlawful  
 3 discrimination also includes, among other things: “a failure to make reasonable  
 4 modifications in policies, practices, or procedures, when such modifications are  
 5 necessary to afford such goods, services, facilities, privileges, advantages, or  
 6 accommodations to individuals with disabilities, unless the entity can demonstrate  
 7 that making such modifications would fundamentally alter the nature of such goods,  
 8 services, facilities, privileges, advantages or accommodations”; and “a failure to  
 9 take such steps as may be necessary to ensure that no individual with a disability is  
 10 excluded, denied services, segregated or otherwise treated differently than other  
 11 individuals because of the absence of auxiliary aids and services, unless the entity  
 12 can demonstrate that taking such steps would fundamentally alter the nature of the  
 13 good, service, facility, privilege, advantage, or accommodation being offered or  
 14 would result in an undue burden.” 42 U.S.C. § 12182(b)(2)(A)(ii)-(iii). “A public  
 15 accommodation shall take those steps that may be necessary to ensure that no  
 16 individual with a disability is excluded, denied services, segregated or otherwise  
 17 treated differently than other individuals because of the absence of auxiliary aids  
 18 and services, unless the public accommodation can demonstrate that taking those  
 19 steps would fundamentally alter the nature of the goods, services, facilities,  
 20 privileges, advantages, or accommodations being offered or would result in an  
 21 undue burden, i.e., significant difficulty or expense.” 28 C.F.R. § 36.303(a). In  
 22 order to be effective, auxiliary aids and services must be provided in accessible  
 23 formats, in a timely manner, and in such a way as to protect the privacy and  
 24 independence of the individual with a disability.” 28 C.F.R. § 36.303(c)(1)(ii).

25 48. Defendant’s location is a “public accommodation” within the meaning  
 26 of 42 U.S.C. § 12181 *et seq.* Defendant generates millions of dollars in revenue  
 27 from the sale of its amenities and services, privileges, advantages, and  
 28 accommodations in California through its location, related services, privileges,



1 advantages, and accommodations, and its website, <https://shop.thebel-air.com/>, is a  
2 service, privilege, advantage, and accommodation provided by Defendant that is  
3 inaccessible to customers who are visually-impaired like Plaintiff. This  
4 inaccessibility denies visually impaired customers full and equal enjoyment of and  
5 access to the facilities and services, privileges, advantages, and accommodations  
6 that Defendant makes available to the non-disabled public. Defendant is violating  
7 the Americans with Disabilities Act, 42 U.S.C. § 12181 *et seq.*, in that Defendant  
8 denies visually impaired customers the services, privileges, advantages, and  
9 accommodations provided by <https://shop.thebel-air.com/>. These violations are  
10 ongoing.

11 49. Defendant's actions constitute intentional discrimination against  
12 Plaintiff on the basis of a disability in violation of the Americans with Disabilities  
13 Act, 42 U.S.C. § 12181 *et seq.* in that: Defendant has constructed a website that is  
14 inaccessible to Plaintiff; maintains the website in this inaccessible form; and has  
15 failed to take adequate actions to correct these barriers even after being notified of  
16 the discrimination that such barriers cause.

17 50. Pursuant to 42 U.S.C. § 12188 and the remedies, procedures, and rights  
18 set forth and incorporated therein, Plaintiff requests relief as set forth below.

## 19 **COUNT II**

### 20 **VIOLATIONS OF THE UNRUH CIVIL RIGHTS ACT, CALIFORNIA**

#### 21 **CIVIL CODE § 51 *ET SEQ.***

22 51. Plaintiff alleges and incorporates herein by reference each and every  
23 allegation contained in paragraphs 1 through 50, inclusive, of this Complaint as if  
24 set forth fully herein.

25 52. Defendant's location is a "business establishment" within the meaning  
26 of the California Civil Code § 51 *et seq.* Defendant generates millions of dollars in  
27 revenue from the sale of its services in California through its location and related  
28 services, and <https://shop.thebel-air.com/> is a service provided by Defendant that is

1 inaccessible to customers who are visually impaired like Plaintiff. This  
2 inaccessibility denies visually impaired customers full and equal access to  
3 Defendant's facilities and services that Defendant makes available to the non-  
4 disabled public. Defendant is violating the Unruh Civil Rights Act, California Civil  
5 Code § 51 *et seq.*, in that Defendant is denying visually impaired customers the  
6 services provided by <https://shop.thebel-air.com/>. These violations are ongoing.

7 53. Defendant's actions constitute intentional discrimination against  
8 Plaintiff on the basis of a disability in violation of the Unruh Civil Rights Act,  
9 California Civil Code § 51 *et seq.* in that: Defendant has constructed a website that  
10 is inaccessible to Plaintiff; maintains the website in this inaccessible form; and has  
11 failed to take adequate actions to correct these barriers even after being notified of  
12 the discrimination that such barriers cause.

13 54. Defendant is also violating the Unruh Civil Rights Act, California  
14 Civil Code § 51 *et seq.* in that the conduct alleged herein likewise constitutes a  
15 violation of various provisions of the ADA, 42 U.S.C. § 12101 *et seq.* Section 51(f)  
16 of the California Civil Code provides that a violation of the right of any individual  
17 under the ADA shall also constitute a violation of the Unruh Civil Rights Act.

18 55. The actions of Defendant were and are in violation of the Unruh Civil  
19 Rights Act, California Civil Code § 51 *et seq.*, and, therefore, Plaintiff is entitled to  
20 injunctive relief remedying the discrimination.

21 56. Plaintiff is also entitled to statutory minimum damages pursuant to  
22 California Civil Code § 52 for each and every offense.

23 57. Plaintiff is also entitled to reasonable attorneys' fees and costs.

24 58. Plaintiff is also entitled to a preliminary and permanent injunction  
25 enjoining Defendant from violating the Unruh Civil Rights Act, California Civil  
26 Code § 51 *et seq.*, and requiring Defendant to take the steps necessary to make  
27 <https://shop.thebel-air.com/> readily accessible to and usable by visually impaired  
28 individuals.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff respectfully requests that the Court enter judgment  
3 in her favor and against Defendant as follows:

- 4 A. A preliminary and permanent injunction pursuant to 42 U.S.C. §  
5 12188(a)(1) and (2) and section 52.1 of the California Civil Code  
6 enjoining Defendant from violating the Unruh Civil Rights Act and  
7 ADA and requiring Defendant to take the steps necessary to make  
8 <https://shop.thebel-air.com/> readily accessible to and usable by  
9 visually-impaired individuals;
- 10 B. An award of statutory minimum damages of \$4,000 per offense  
11 pursuant to section 52(a) of the California Civil Code.
- 12 C. For attorneys' fees and expenses pursuant to California Civil Code §§  
13 52(a), 52.1(h), and 42 U.S.C. § 12205;
- 14 D. For pre-judgment interest to the extent permitted by law;
- 15 E. For costs of suit; and
- 16 F. For such other and further relief as the Court deems just and proper.

17 **DEMAND FOR JURY TRIAL**

18 Plaintiff, on behalf of herself, hereby demands a jury trial for all claims so  
19 triable.

20  
21 Dated: May 16, 2022

Respectfully Submitted,

22 /s/ Thiago M. Coelho

23 Thiago M. Coelho

24 Binyamin I. Manoucheri

25 **WILSHIRE LAW FIRM**

26 *Attorneys for Plaintiff*